



CITY OF WINCHESTER, VIRGINIA

Rouss City Hall
15 North Cameron Street
Winchester, Virginia 22601
www.winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 722-3618
TDD: (540) 722-0782

BOARD OF ZONING APPEALS AGENDA

September 9, 2015 - 4:00 P.M.
Council Chambers - Rouss City Hall

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes August 12, 2015
- C. Reading of Correspondence

2. PUBLIC HEARINGS

3. NEW BUSINESS

4. OLD BUSINESS

5. ADJOURN

BZA-15-484 Request of Pennoni Associates, Inc. for a variance of the Winchester Zoning Ordinance Section 18-8-6.2.b.2 pertaining to maximum sign height at 1675 South Pleasant Valley Road (*Map Number 253-01- -9 - > <01*) zoned Highway Commercial, B-2 District. The request is to grant a variance to increase the maximum height of a freestanding sign proposed along the property's Jubal Early Drive frontage. This is to accommodate the topographic challenges presented by the grade of Jubal Early Drive as it extends past the property.

BZA-15-487 Request of DORI, LLC for a variance of the Winchester Zoning Ordinance Section 5.1-5-1 pertaining to a front yard setback at 4 East Southwerk Street (*Map Number 212-01-Q-1 - > <01*) zoned Limited High Density Residential, HR-1 District. The request is to grant a variance in order to front the house on Southwerk Street and subsequently divide the current lot into two conforming single family lots.

**BOARD OF ZONING APPEALS
MINUTES**

The Board of Architectural Review held its regularly scheduled meeting on Wednesday, August 12, 2015, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Pifer, Vice Chairman Crawford, Ms. Marchant, Mr. Whitacre

ABSENT: Ms. Anderson, Mr. Lewis

STAFF: Aaron Grisdale, Erick Moore, Carolyn Barrett

VISITORS: Clyde Williams

CONSENT AGENDA:

Approval of Minutes of June 10, 2015:

Chairman Pifer called for corrections or additions to the minutes. Ms. Marchant made a motion to approve the minutes as submitted. Vice Chairman Crawford seconded the motion. Chairman Pifer called for a vote. Voice vote was taken and the motion passed 4-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

BZA-15-381 Request of Gorianadis, LLC for a variance pertaining to a rear yard setback pursuant to Section 7-6-2 of the Winchester Zoning Ordinance for the property located at 300-302 North Kent Street (Map Number 174-01-G-1 - > <01), zoned Residential Business (RB1) district. The applicant is proposing to subdivide the subject parcel into three lots.

Mr. Grisdale reviewed the case and explained the details. Staff supports the request and has not received any letters or phone calls regarding the issue.

Vice Chairman Crawford asked if the plan will reduce the density that should be there. Mr. Grisdale said it would be like a two unit townhome or duplex.

Chairman Pifer Opened the Public Hearing

Mr. Williams of 307 North Kent Street spoke in favor of changing the house to a duplex. He believes it will solve a lot of problems with people moving in and out of the building frequently.

Chairman Pifer Closed the Public Hearing

Vice Chairman Crawford noted that nothing will change except the definition. With no other comments, Chairman Pifer called for a motion.

Ms. Marchant moved that the Board of Zoning Appeals approve a variance to Gorianadis, LLC, pertaining to a rear yard setback pursuant to Section 7-6-2 of the Winchester Zoning Ordinance for the property located at 300-302 North Kent Street (Map Number 174-01-G-1), zoned Residential Business (RB1) district, with the following conditions:

- 1. A complete application for the proposed subdivision must be submitted to the Subdivision Administrator within one year.*
- 2. The variance is limited to the subdivision as proposed on the survey by Marsh & Legge Surveyors, P.L.C dated June 30, 2015.*

This variance is approved because:

- a. The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

Vice Chairman Crawford seconded the motion. Chairman Pifer asked for a roll call vote.

Vice Chairman Crawford – yes

Ms. Marchant – yes

Mr. Whitacre – yes

Chairman Pifer – yes

Chairman Pifer stated the motion passed 4-0.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

ADJOURN:

With no further business before the Board, the meeting was adjourned at 4:09pm.



CASE #: 15-484
FEE AM'T: \$575.00
DATE PAID: 8/19/15

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information

Pennoni Associates Inc. c/o Michael Newlin, PE

Applicant

540-667-2139

Telephone

117 E. Piccadilly Street, Suite 200

Street Address

mnewlin@pennoni.com

E-mail address

Winchester

City

VA

State

22601

Zip

Michael Newlin, V.P.
OWNER'S SIGNATURE (use reverse to list additional owners)

212-265-6600 Ext. 305

Telephone

Somerville Winchester LP

Owner Name (as appears in Land Records)

c/o RD Management LLC
810 Seventh Avenue

Street Address

arossi@rdmanagement.com

E-mail address

New York

City

NY

State

10019

Zip

REQUEST TYPE CODE - Please mark type of request and complete information

KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE

ORDINANCE SECTION

PERTAINING TO:

V

18-8-6.2.b.2

Maximum sign height

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section

Public hearing sign deposit fee: \$50

PROPERTY LOCATION

Current Street Address(es) 1675 S. Pleasant Valley Road

Zoning B2

Tax Map Identification - (sections, blocks, lots) 253-1-9

REQUIRED MATERIALS LIST

- ☒ 1 copy of application (this form completed)
- ☒ 10 copies of letter explaining request and grounds for request
- ☒ 10 Copies of plans/or drawings, and surveys
- ☒ Fee (check made payable to the **Treasurer, City of Winchester**)
- ☒ List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- ☒ Disclosure of Real Parties in Interest (list all equitable owners)
- ☒ Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE *Michael Newlin*

DATE 8/19/2015

August 19, 2015

Aaron M. Grisdale, CZA
Director of Zoning and Inspections
City of Winchester
15 N. Cameron Street
Winchester, VA 22601

RE: Variance Request – Sign Height; Winchester Plaza

Dear Aaron:

Please find attached the application materials for a variance request for the maximum height of one freestanding sign at Winchester Plaza, zoned B2 (Highway Commercial), and located at 1675 South Pleasant Valley Road (the "Property") to permit an increase in height from 20 feet to 35 feet. The owner of the Property has invested significant funds into redeveloping and reviving the Property since the closure of the Kmart store that formerly occupied the site until the Spring of 2014. Dick's Sporting Goods recently held its grand opening as the first new tenant for the Property. In addition, three additional tenant spaces are planned for the Property. This variance request seeks to increase the maximum height of a freestanding sign proposed along the Property's Jubal Early Drive frontage to accommodate the topographic challenges presented by the grade of Jubal Early Drive as it extends past the Property. Additional background information and site specific justification for the requested variance is as follows:

Background

The Property is comprised of a single building with associated parking. The Property has frontage and access via Millwood Avenue and Spring Street, however access is afforded by these roadways via narrow extensions of land adjacent to the Ruby Tuesday, Taco Bell, and new Roy Roger's sites. This "pipestem" type lot arrangement results in diminished sight lines from both Millwood Avenue and Spring Street. The southern boundary of the Property is formed by Jubal Early Drive, however direct access to Jubal Early is not possible due to the significant grade separation between Jubal Early Drive and the Property, which is necessary to bridge the existing railroad which forms the western boundary of the Property.

To ensure the commercial success of the Property, the owner is currently preparing plans for freestanding signage for the site. Section 18-8-6.2b(2) of the *Winchester Zoning Ordinance* (the "Zoning Ordinance") permits one freestanding sign for each public street frontage for the Property with the first sign not exceeding 25 feet in height and 75 square feet in area and any additional signs limited to 20 feet in height and 50 square feet in area. The first sign for the Property, subject to the 25 foot height 75 square foot area limitations is already located at the Property entrance on Millwood Avenue. A second sign, meeting the 20 foot height limitation and 50 square foot area limitation will be located at the Spring Street entrance to the Property. The Zoning Ordinance permits a third freestanding sign for the Property along the Jubal Early Drive frontage subject to a maximum height of 20 feet and a maximum area of 50 square feet. While the maximum permitted area of the sign along Jubal Early Drive is not an issue, the topographic conditions along the Jubal Early Drive frontage would render a 20 foot tall sign

ineffective. The owner of the Property is requesting a variance of Section 18-8-6.2b(2) of the Zoning Ordinance to permit a maximum height of 35 feet for a freestanding sign along Jubal Early Drive.

For reference, an overall site plan with aerial photography that identifies the proposed freestanding sign locations for the Property is attached as Exhibit A. In addition, recent photographs are attached as Exhibit B in order to convey the existing topographic issues for a sign located along the Property's Jubal Early Drive frontage.

Justification

Pursuant to Section 20-2-3.1, the Board of Zoning Appeals (the "BZA") may grant a variance in order to alleviate a clearly demonstrable hardship caused by exceptional topographic conditions. In addition, Section 20-2-3.2 of the Zoning Ordinance specifies three findings that the BZA must make in order to grant a variance. Those three findings and site specific justification for each, is as follows:

a. That the strict application of this Ordinance would produce a clearly demonstrable hardship.

As explained in the background summary above and depicted by the attached photographs, the height of Jubal Early Drive above the existing grade of the subject Property creates a disconnect between the roadway and the Property. While the increased elevation of Jubal Early Drive is necessary to provide for a grade separated crossing of the railroad, a sign which would typically be 20 feet in height in order to advertise commercial tenants has been effectively reduced to approximately 0 feet in height as the existing roadway is elevated approximately 20 feet above the base of the proposed sign. Accordingly, the strict application of the Zoning Ordinance would produce a clearly demonstrable hardship specific to the Property.

b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

The hardship is created by the elevation change required to provide for a grade separated railroad crossing for Jubal Early Drive, which is a site specific issue as the railroad forms the western boundary of the subject Property. Therefore, the hardship is not shared generally by other properties in the same zoning district and the same vicinity.

c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The proposed sign is located adjacent to Jubal Early Drive and in the vicinity of other commercial uses. The proposed increase in sign height of 15 feet would not have a detrimental impact on these adjoining properties. Moreover, as the existing grade for Jubal Early Drive is approximately 20 feet above the grade of the proposed sign, the proposed variance would permit an effective sign height (above road grade) of just 15 feet, ensuring that authorization of the variance would not change the character of the B2 Zoning District.

Based on the above justification, we believe that the exceptional topographic conditions that exist between the Property and Jubal Early Drive create a clearly demonstrable hardship with respect to the maximum permitted sign height along Jubal Early Drive. We look forward to presenting this variance request to the BZA.

If you have any questions, please feel free to contact me at (540) 667-2139.

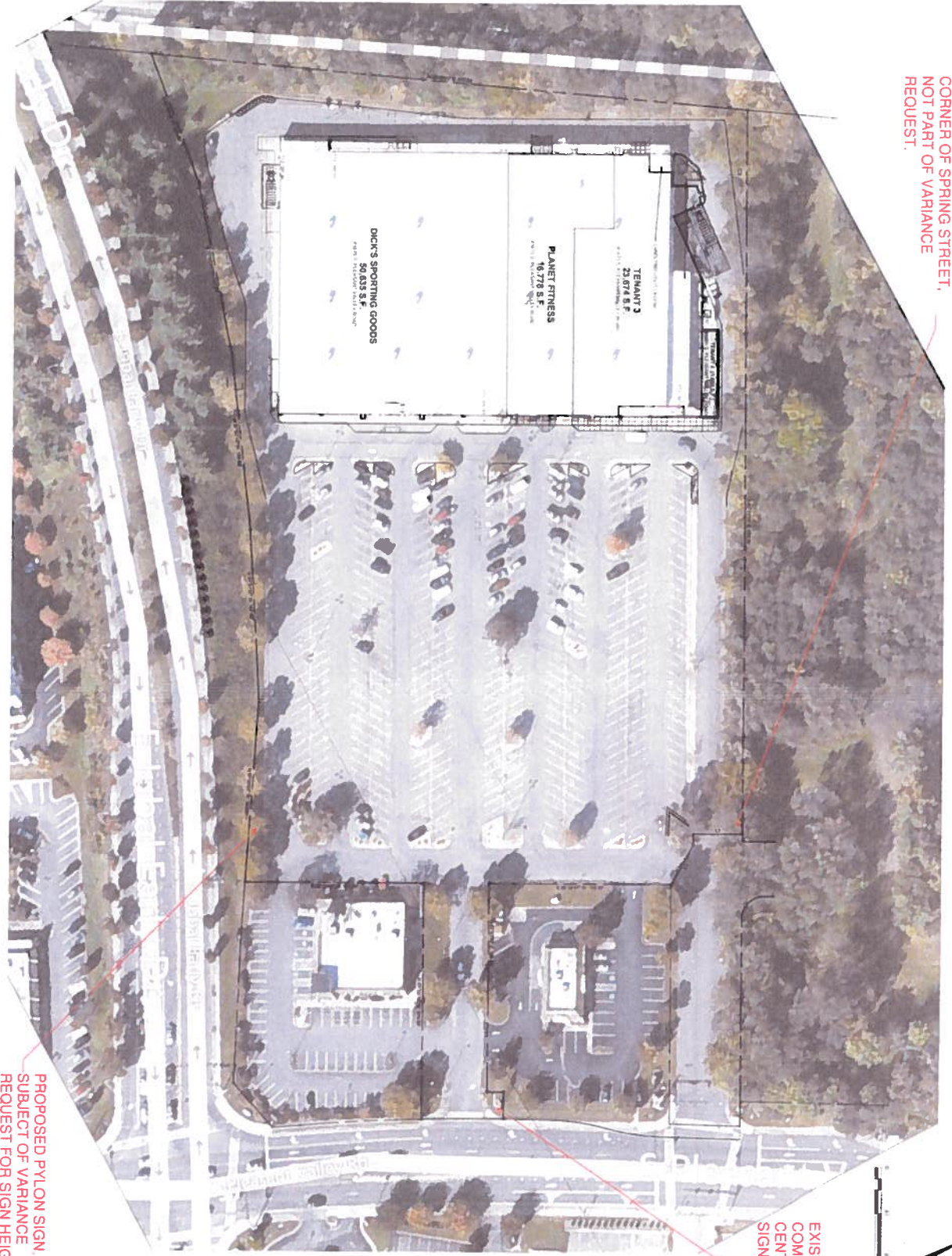
Sincerely,
PENNONI ASSOCIATES INC.



Michael S. Newlin, PE

Attachments

PROPOSED PYLON SIGN, AT
CORNER OF SPRING STREET,
NOT PART OF VARIANCE
REQUEST.



PROPOSED PYLON SIGN
SUBJECT OF VARIANCE
REQUEST FOR SIGN HEIGHT.

EXISTING
COMMERCIAL
CENTER
SIGN

KMART SITE REDEVELOPMENT PHASE 2

1071 1073 N. PLEASANT VALLEY ROAD
WINCHESTER, VA 22601
EXHIBIT A
SOMERVILLE WINCHESTER LIMITED
PARTNERSHIP CO-OP MANAGEMENT LLC
110 SEVENTH AVE
NEW YORK, NY 10019

ALL DIMENSIONS MUST BE VERIFIED BY CONTRACTOR
AND OWNER MUST BE NOTIFIED OF ANY
DISCREPANCIES BEFORE PROCEEDING WITH WORK



PENNONI ASSOCIATES INC.
117 East Pricely Street
Winchester, VA 22601
T 540.665.2145 F 540.665.0453

**SIGN
VARIANCE**

DATE	10/15/19	REVISION	
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Variance Request – Sign Height; Winchester Plaza

Exhibit B



Photo 1: Pedestrian View from Jubal Early Drive of Building Frontage



Photo 2: Height of roadway above sign base. Approximately 20-feet.



Photo 3: Height of roadway above sign base. Approximately 20-feet.



Photo 4: Driver's view of building frontage and approximate location of proposed pylon sign.



**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case: BZA-15-484

Applicant: Pennoni Associates Inc. (on behalf of owner Somerville Winchester LP)

Location: 1675 South Pleasant Valley Road

Zoning: Highway Commercial (B-2) District

Future Land Use: Commercial.

Legal Notice: The request for variance was advertised in the *Winchester Star* on August 26, 2015, and September 2, 2015. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of Pennoni Associates, Inc. for a variance of the Winchester Zoning Ordinance Section 18-8-6.2.b.2 pertaining to maximum sign height at 1675 South Pleasant Valley Road (Map Number 253-01- -9 - > <01) zoned Highway Commercial, B-2 District. The request is to grant a variance to increase the maximum height of a freestanding sign proposed along the property's Jubal Early Drive frontage. This is to accommodate the topographic challenges presented by the grade of Jubal Early Drive as it extends past the property.

BACKGROUND

The subject property is located on the northwest corner of West Jubal Early Drive and South Pleasant Valley Road and is zoned Highway Commercial (B-2) district. The immediately surrounding properties on the south and east are similarly zoned and consist of commercial uses. The property directly to the north is conditionally zoned Highway Commercial (B-2) district and consists of commercial uses. The property is immediately adjoined on the west by railroad right-of-way with the uses on the other side of the railroad consisting of both Medium Density Residential (MR) and Commercial Industrial (CM-1) zoned land.

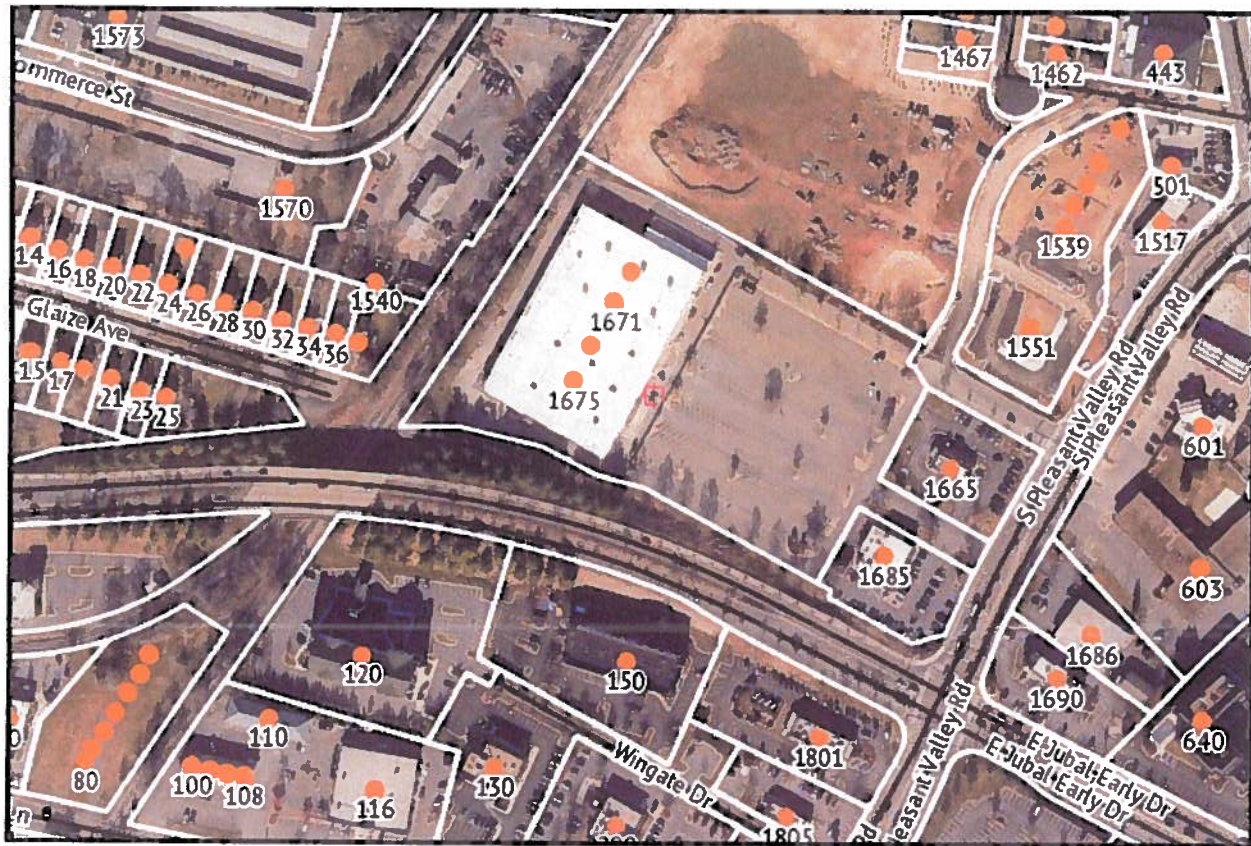


Exhibit A - Vicinity Map



Exhibit B - Vicinity Zoning Map

The property, which consists of the old K-Mart building, has been undergoing renovations with the establishment of up to four commercial tenant spaces in the existing building. During the building's use as K-Mart, there was one 75 square foot freestanding sign permitted which is a pylon style freestanding sign along South Pleasant Valley Road and between Taco Bell and Ruby Tuesdays.

With the property's conversion to a multi-tenant building, additional freestanding signage is permitted. In addition to the existing 75 square foot sign along Pleasant Valley Road, one additional sign is permitted per street frontage at a size of 50 square feet and 20 feet in height. The property has a total of three frontages (South Pleasant Valley Road, West Jubal Early Drive, and Spring Street), as a result a total of three freestanding signs are permitted.

The applicant is requesting a variance of sign height for a potential sign considered for installation along the frontage with West Jubal Early Drive. Their contention is that the grade differential due to the recessed topography of the shopping center from the incline of the public right-of-way would make the 20-foot height sign allowance ineffective. Specifically within the request, the applicant is seeking a variance of sign height to allow an additional 15 feet, for a total of 35-foot sign height for the allowed freestanding sign on the West Jubal Early Drive frontage.

STAFF ANALYSIS & CONCLUSION

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the

applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

1. That the strict application of this Ordinance would produce a clearly demonstrable hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.

The applicant states within the request letter that the existing grade for Jubal Early Drive is approximately 20 feet above the grade of the proposed sign. While this is partially correct, the grade difference in the area where the sign is proposed is closer to 10-12 feet of separation. On the approved site plan, the freestanding sign is proposed near the southeast corner of the parcel, near the Ruby Tuesday's parcel. With a grade difference of only 10-12 feet, that will allow for a 20-foot tall freestanding sign to be 8-10 feet above grade. Furthermore, with the renovation of the old K-Mart building into a multi-tenant commercial building, the freestanding sign allowance has more than doubled from a maximum of 75 square feet previously to up to a combined 175 square feet permitted. Staff has a difficult time determining that a demonstrable hardship exists in this instance.

If the board is inclined to support the applicant's request, staff would recommend that conditions be included to reduce the allowable sign height for the potential freestanding sign on Spring Street to a maximum of 15-feet in height from 20-feet in height with the style of freestanding sign being a monument style sign versus a pylon sign.

Note: Staff has not received any letters of support or opposition for this application.

POSSIBLE MOTION(S)

[Approve the variance]

1. **MOVE**, that the Board of Zoning Appeals **approve** a variance of the Winchester Zoning Ordinance Section 18-8-6.2.b.2 pertaining to maximum sign height at 1675 South Pleasant Valley Road (Map Number 253-01- -9) zoned Highway Commercial, B-2 District, with the following conditions:
 - a. The variance applies only to the sign on the Jubal Early Drive frontage allowing for a maximum height of 35-feet.
 - b. Should the sign ever be relocated or removed the variance shall expire.

- c. The sign permitted on the Spring Street frontage shall be a monument style sign with a maximum height of 15-feet.

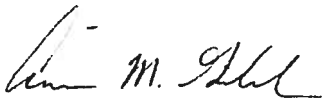
This variance is approved because:

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

[Deny the variance]

2. **MOVE**, that the Board of Zoning Appeals **deny** a variance of the Winchester Zoning Ordinance Section 18-8-6.2.b.2 pertaining to maximum sign height at 1675 South Pleasant Valley Road (Map Number 253-01- -9) zoned Highway Commercial, B-2 District, for the following reasons:

- a. *The strict application of this Ordinance would not produce a clearly demonstrable hardship since there is an overall increase in the amount of allowable freestanding sign area as a result of the changes in use at the property.*
- b. *The grade difference between Jubal Early Drive and 1675 South Pleasant Valley Road will not render the potential freestanding sign ineffective.*
- c. *(List any additional reasons)*



Aaron M. Grisdale, CZA
Director of Zoning and Inspections



CASE #: B7A 15-487
FEE AM'T: \$575.00
DATE PAID: 8/19/15

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information

<u>540-431-3284</u>		<u>DORI, LLC</u>	
Telephone		Applicant	
<u>rpifer@piferco.com</u>		<u>1822 ROBERTS ST.</u>	
E-mail address		Street Address	
		<u>WINCHESTER</u>	<u>VA 22601</u>
		City	State Zip

<u>Rev. Peter Manager</u>		<u>DORI, LLC</u>	
OWNER'S SIGNATURE (use reverse to list additional owners)		Owner Name (as appears in Land Records)	
<u>540-432-3284</u>		<u>1822 ROBERTS ST.</u>	
Telephone		Street Address	
<u>rpifer@piferco.com</u>		<u>WINCHESTER VA 22601</u>	
E-mail address		City	State Zip

REQUEST TYPE CODE - Please mark type of request and complete information

KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<u>V</u>	<u>5.1-5-1</u>	<u>FRONT YARD SETBACK</u>

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section
Public hearing sign deposit fee: \$50

PROPERTY LOCATION
Current Street Address(es) 4 SOUTHWERK ST. Zoning HR-1

Tax Map Identification - (sections, blocks, lots) 212-1-Q-1

REQUIRED MATERIALS LIST

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings, and surveys
- Fee (check made payable to the Treasurer, City of Winchester)
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/We hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE Rev. Peter Manager DATE 8/18/15

REQUEST FOR VARIANCE FOR 4 SOUTHWERK ST.

AUGUST 18, 2015

TO: WINCHESTER BOARD OF ZONING APPEALS

FROM: DORI, LLC

PURPOSE: SUBDIVIDE EXISTING LOT 2 INTO TWO CONFORMING LOTS

ACTION NEEDED:

A zoning front yard setback variance needs to be granted in order to front the house on Southwerk and subsequently subdivide the current lot into two conforming single family lots. The lot and house have a current address in Winchester's real estate records of 4 Southwerk St and the front walk, front door and house front physically on Southwerk. While the ordinance calls for a 20' setback the existing setback is 12.1' off Southwerk. If this variance is approved then the property will be subdivided in a manner as to create two conforming single family lots. This house shall have a side yard of approximately 4.5' with that newly created line. The ordinance calls for 4'.

Of the structures fronting on Southwerk in this block and to the immediate west to Valley Ave (light yellow on the map), a total of 24, 21 are not in compliance with the 20' setback. All of the structures fronting on Loudoun in the same block as this parcel and those on the directly opposite block on the west side of Loudoun (light green on the map), a total of 6, all are not in compliance with the setback. As the distance of the house to the street is typical of the neighborhood this variance is in line with the neighborhood and thus should be granted.

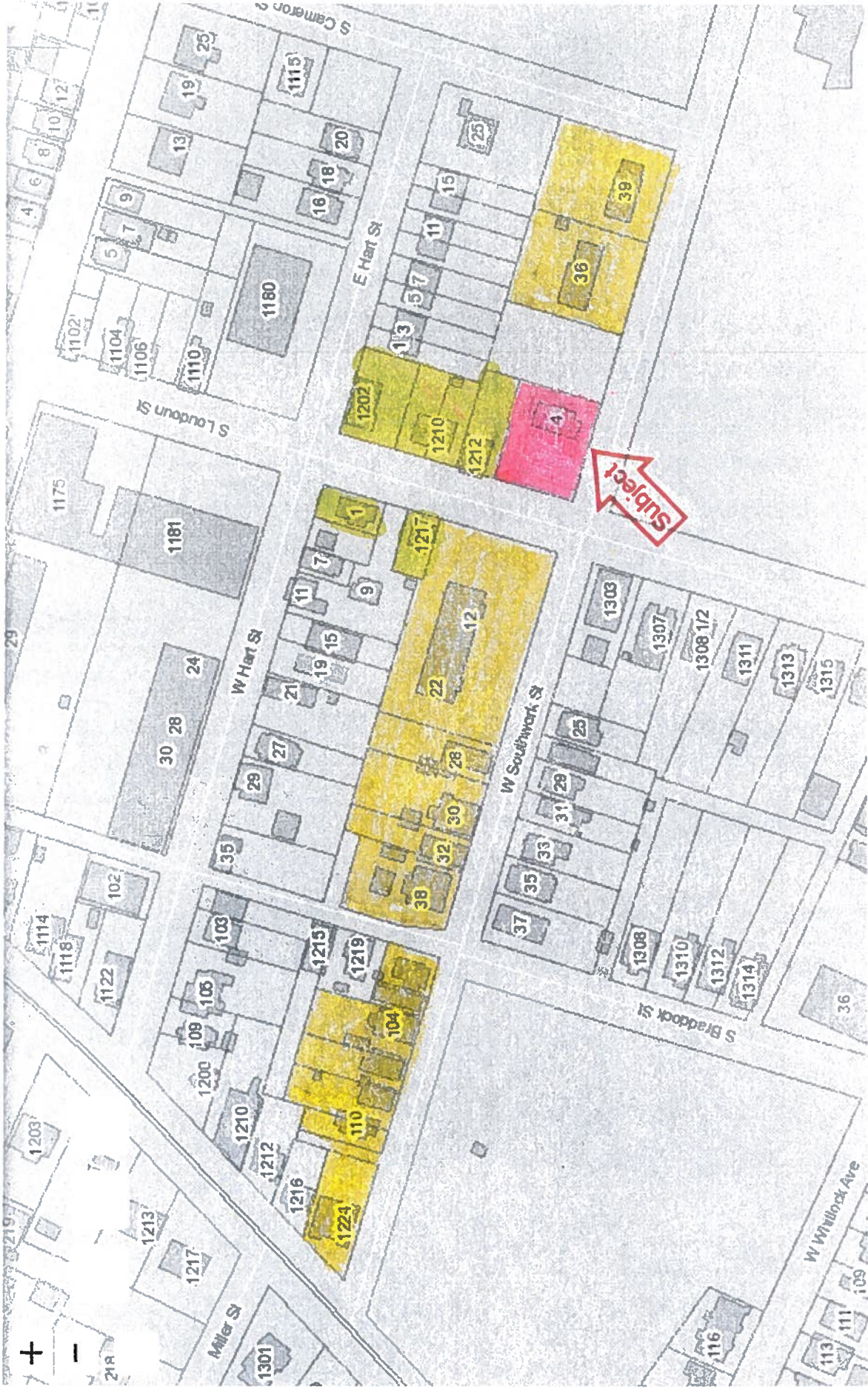
Thank you for your consideration.

DORI, LLC



Member/Manager

Tax Parcel Mapping



PAVED STREET

EAST SOUTHWARK STREET

**PAVED
STREET**

17.4'

CLUB LINE

17.4'

10.0

**20' PRIVATE SEWER
WATER & ACCESS
EASEMENT** _____

NO. 1214
EASTING HOUSE

LOT 1
5,097
SQ. FT.

LOT 3
8,669 SQ. FT.

N16° 09' 31" E - 120.40'

7,110,587.48
14,576,788.48
MAD 1983

MARY LOUISE BYRD
O.B. 94 - P. 79



PIFER
COMPANIES

RICHARD W. PIFER
REALTOR®
PIFER & ASSOCIATES, LLC

540.542.1670 x136
540.542.1672 FAX

1822 ROBERTS STREET
WINCHESTER, VA 22601
rpifer@piferco.com

☐ — IRON PIN (FOUND)
☐ — IRON PIN (SET)

**SEE BZA-92-16 FOR
VARIANCES GRANTED
TO THIS PROPERTY**



PROPOSED LOT

SOUTH LOUDOUN STREET

PAVED STREET

EAST SOUTHWERK STREET

~~PAVED~~
~~STREET~~

17.4

BOLD

S 16° 02' 55" W - 121.74'

71.45°

LOT 2A

NO. 1212

WESTING HOUSE

PROPOSED NEW
LOT LINE

NO. 1214

EXISTING HOUSE

LOT 2B

02.07

S 16° 18' 24" W - 120.92'

LOT 1

5,097
SQ. FT.

LOT 3
8,669 SQ. FT.

10

0021

N16° 09' 31" E - 120.40'

N 7,110,587.45
E 1,576,782.40
NAD 1983

MARY LOUISE BYRD
O.B. 94 - P. 79



PIFER
COMPANIES

WWW.PFERCO.COM

GENERAL CONTRACTOR
REAL ESTATE SALES & LEASING
PROPERTY MANAGEMENT

RICHARD W. PIFER
REALTOR®
PIFER & ASSOCIATES, LLC

540.542.1670 x136
540.542.1672 FAX

1822 ROBERTS STREET
WINCHESTER, VA 22601

rpifer@piferco.com

○ — IRON PIN (FOUND)
 □ — IRON PIN (SET)

**SEE BZA-92-16 FOR
VARIANCES GRANTED
TO THIS PROPERTY**





**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case:	BZA-15-487
Applicant:	Dori LLC
Location:	4 Southwerk Street
Zoning:	Limited High Density Residential (HR-1) District
Future Land Use:	2 Single Family Lots.
Legal Notice:	The request for variance was advertised in the <i>Winchester Star</i> on August 26, 2015, and September 2, 2015. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.
Applicant's Request:	Request of DORI, LLC for a variance of the Winchester Zoning Ordinance Section 5.1-5-1 pertaining to a front yard setback at 4 East Southwerk Street (Map Number 212-01-Q-1) zoned Limited High Density Residential, HR-1 District. The request is to grant a variance in order to front the house on Southwerk Street and subsequently divide the current lot into two conforming single family lots.

BACKGROUND

The subject property is located on the northeast corner of South Loudoun Street and East Southwerk Street and is zoned Limited High Density Residential (HR-1) district. The immediately surrounding properties on the north, east, and west are similarly zoned and consist of primarily one and two family dwellings. The property directly to the southeast is zoned Education, Institution, and Public Use (EIP) district and consists of Quarles Elementary School.



Exhibit A - Vicinity Map



Exhibit B - Vicinity Zoning Map

The property currently consists of one single family structure located at 4 East Southwerk Street and is oriented towards Southwerk Street. The lot current is a corner lot with frontages on both South Loudoun Street and East Southwerk Street. The property owner is considering the subdivision of the lot to create two conforming lots.

With the current lot there is sufficient lot area and width to create two conforming lots. However, with the potential subdivision the yard definitions of the property will change. With the current layout of the property the front yard is the frontage oriented towards South Loudoun Street, with East Southwerk Street being a corner side yard. With a potential subdivision, the yard between Southwerk Street and the house will change from a corner side yard to a front yard. The current setback for this yard is 12.1 feet where the front yard requirement for the HR-1 district is 20-feet. The request today is for a variance of 7.9 feet for the front yard requirement in the HR-1 district.

This property has been the subject of Board of Zoning Appeals action before with a rear yard variance approved in 1992 as a result of boundary line changes of several lots in this block. This previously approved variance for a deficient rear yard will no longer be necessary as the potential property reorientation will result in the now rear yard becoming a conforming side yard.

STAFF ANALYSIS & CONCLUSION

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the

applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

1. **That the strict application of this Ordinance would produce a clearly demonstrable hardship.**
2. **That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.**
3. **That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.**

Staff believes that overall the applicant is making a bare minimum request to have reasonable use of the property. The possible subdivision will result in two conforming lots and the variance today is simply a result of the reorientation of the property.

Staff supports this variance and recommends the Board approve the request.

Note: Staff has not received any letters of support or opposition for this application.

POSSIBLE MOTION(S)

[Approve the variance]

1. **MOVE**, that the Board of Zoning Appeals **approve** a variance of the Winchester Zoning Ordinance Section 5.1-5-1 pertaining to a front yard setback at 4 East Southwerk Street (Map Number 212-01-Q-1) zoned Limited High Density Residential, HR-1 District, with the following conditions:
 - a. The variance applies to the current structure with its existing footprint and use as only a single family dwelling.
 - b. A complete application for the proposed subdivision must be submitted to the Subdivision Administrator within one year.

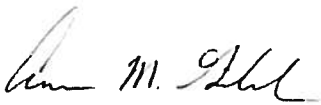
This variance is approved because:

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*

- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

[Deny the variance]

2. **MOVE**, that the Board of Zoning Appeals **deny** a variance of the Winchester Zoning Ordinance Section 5.1-5-1 pertaining to a front yard setback at 4 East Southwerk Street (Map Number 212-01-Q-1) zoned Limited High Density Residential, HR-1 District, for the following reasons:
- a. *The strict application of this Ordinance would not produce a clearly demonstrable hardship.*
 - b. *(List any additional reasons)*



Aaron M. Grisdale, CZA
Director of Zoning and Inspections

